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Attorney Docket No.: UMC99-001D2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Best Available Copy

In Re Application of: *Hsuan*) Art Unit: 2826
)
Serial No.: 10/634,404)
)
Filed: August 5, 2003 as a divisional of serial no.) Examiner: Andujar, Leonardo
10/167,118 filed June 11, 2002)
)
For: *Intermediate Structure for Making Integrated Circuit*)
Device & Wafer)

(SUBSTITUTE) APPLICANT RESPONSE TO
FAILURE TO ACCEPTABLY RESPOND TO NOTICE OF NON-COMPLIANT
AMENDMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the "FAILURE TO ACCEPTABLY RESPOND TO NOTICE OF NON-COMPLIANT AMENDMENT" letters of February 10, 2005 and February 22, 2005: the objections and rejections are traversed for the following reasons:

- (1) the letter is mistaken, in that the office communication mailed November 17, 2004 is a not a "Notice of Non-Compliant Amendment";
- (2) the November 17 letter was provided by the Examiner in response to Applicant's election per a restriction requirement not an "amendment" to the claims;
- (3) the letter from the Examiner merely asks for the Applicant to elect a single species and provide a "list" of the claims readable on the elected species:

The reply filed on 08/25/2004 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): Applicant failed to elect a single disclosed species and to provide a complete list of the claims readable on the elected species as required in the election requirement sent on 05/11/2004. Since the above-mentioned reply appears to be bona fide, applicant is given ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.130(a)

Leonardo Andujar
Patent Examiner
Art Unit 2826
11/14/2004

- (4) This “list of claims readable on the elected species” was given to the Examiner in the Supplemental response: 49 – 60. This response from the Applicant therefore was a response to a restriction requirement, not an amendment of the claims under 37 C.F.R. 1.121. This is confirmed by the Examiner’s own letter, which makes no mention of a “non-compliant” amendment.
- (5) Since there is no amendment filed yet in this case by Applicants that falls within 37 C.F.R. 1.121, the rejection in the most recent letter - based on failing to file a separate complete listing of the claims is traversed.

Nonetheless, to the extent that the Examiner feels that an exception should be made in this instance, and to facilitate prompt examination, a complete listing of the claims is attached below.

Please note that in response to the Notice of February 22, 2005:

- (1) a complete listing is provided; it is not necessary to provide the text of canceled claims;
- (2) the text of the withdrawn claims is provided;
- (3) the status identifier for each claim is also provided.